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April 26, 2005

MARK L. HATCHER  
CLERK U.S. BANKRUPTCY COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA  
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DEPUTY

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF WASHINGTON**

In re:

BRIAN WHEELER and MICHELLE  
WHEELER,

Debtors.

No. 04-52032

**MEMORANDUM DECISION  
PUBLISHED**

This case came before the Court on March 1, 2005, on the Chapter 13 Trustee's (Trustee) objection to confirmation/alternative motion to dismiss. Brian and Michelle Wheeler (Debtors) filed an opposition to the objection/alternative motion. Based on the arguments presented and pleadings submitted, the Court makes the following findings of fact and conclusions of law.

**FINDINGS OF FACT**

The Debtors filed bankruptcy under Chapter 13, Title 11 on December 31, 2004. On that same day, they filed a Chapter 13 Plan of Reorganization. The first meeting of creditors pursuant to 11 U.S.C. § 341 (First Meeting) was held on February 10, 2005. On February 18, 2005, the Trustee filed Trustee's Objection to Confirmation/Alternative Motion to Dismiss, setting a hearing date of March 1, 2005 (11 days notice as to the alternative motion). In the objection portion of the pleading, the Trustee requested that the Debtors

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1 each provide a copy of two recent, consecutive pay stubs. In the motion portion of the  
2 pleading, the Trustee gave the Debtors a deadline of March 31, 2005, to provide the  
3 requested information, and included the following directive: "In the event debtor fails to  
4 comply with the foregoing order and timelines, the Trustee's Motion to Dismiss the debtor's  
5 Chapter 13 case should be granted upon submission of a declaration filed in connection  
6 with an order of dismissal, without further notice."

7 On February 23, 2005, the Debtors filed a response to Trustee's objection and  
8 alternative motion, asserting that the Trustee's motion to dismiss did not comply with the  
9 requirements of due process on several grounds, including insufficient notice, improper  
10 service, and failure to provide an opportunity for hearing. The Debtors also asserted that  
11 the motion failed to state adequate grounds for dismissal, was not timely, and did not  
12 provide adequate opportunity for the Debtors to remedy deficiencies.

13 On February 25, 2005, the Trustee filed a Memorandum in Support of Trustee's  
14 Objection to Confirmation. The memorandum provides that the information requested by  
15 the Trustee—a copy of two recent, consecutive pay stubs for each debtor—is required by  
16 Local Rules W.D. Wash. Bankr. R. 3015-1(f). The memorandum further sets forth the  
17 history of the different methods used by the Trustee to obtain information requested of  
18 debtors upon the Trustee's objection to confirmation:

19 In the first, confirmation was denied and a deadline was set for providing  
20 documents without consequence for non-compliance. With great regularity,  
21 deadlines were ignored and the Trustee was required to file a separate  
22 motion to dismiss for lack of a confirmable plan and unreasonable delay that  
23 is prejudicial to creditors. Debtors then regularly complied under the threat  
24 of the dismissal motion, or a stipulated order resolving such motion. . . .

25 In the second approach . . . confirmation was denied and a deadline  
26 was set for providing documents. These orders included an "alternative  
27 motion to dismiss," but required the trustee to provide 7 days notice to  
28 counsel for failure to comply if the deadline for document submission was  
missed. In two out of three cases with such provisions, the Trustee had to  
send out the Notice of default. With a default rate of sixty-seven percent, it  
became obvious that the Trustee was functioning as the tickle system for  
debtors' counsel. This placed an unreasonable and unnecessary burden on  
the Trustee's office. This approach also resulted in unnecessary delay while  
the Notice of Default served to prompt debtors and their counsel to comply  
with the terms of the Court's order. . . .

MEMORANDUM DECISION - 2

1 In the third approach, as used in this case, confirmation is denied and  
2 a deadline is set with dismissal without further notice as the consequence for  
3 non-compliance. . . . This approach appropriately requires counsel to take  
action without further prompting from the Trustee. . . . Where unforeseen  
problems arise, counsel can always request additional time to comply.

4 The Trustee's Objection to Confirmation/Alternative Motion to Dismiss came for  
5 hearing on March 1, 2005, at which time the Court took the matter under advisement.  
6 Although not requested by the Court, both parties subsequently filed additional pleadings  
7 on the pending issues. On March 7, 2005, Daniel Radin, an Assistant Attorney General  
8 representing the State of Washington's Bankruptcy & Collections Unit, filed a letter advising  
9 the Court that the State also utilizes a practice similar to that of the Trustee's when  
10 objecting to confirmation. This Court is aware that other governmental agencies, such as  
11 the Internal Revenue Service and the Office of the United States Trustee, also utilize similar  
12 practices. On March 18, 2005, Debtors' counsel filed a letter to the Court in response to  
13 Mr. Radin's letter.

#### 14 **CONCLUSIONS OF LAW AND DISCUSSION**

15 The primary issue before the Court is whether the Court can sua sponte dismiss a  
16 Chapter 13 case under 11 U.S.C. §105(a), rather than by motion with notice and a hearing  
17 under 11 U.S.C. § 1307. The Debtors contend that any procedure utilized for dismissal  
18 other than that set forth in and required by 11 U.S.C. § 1307 and applicable court rules,  
19 denies them their right to due process.

20 The Debtors first argue that the Trustee, by seeking to dismiss their case through  
21 an alternative motion to dismiss, must comply with the notice and hearing requirements set  
22 forth by the Bankruptcy Code (Code) and the applicable rules. 11 U.S.C. § 1307(c)  
23 provides, in relevant part, that "on request of a party in interest or the United States trustee  
24 and after notice and a hearing, the court may convert a case under this chapter to a case  
25 under chapter 7 of this title, or may dismiss a case under this chapter . . . ." Fed. R. Bankr.  
26 P. 9014(a) provides that in contested matters, "relief shall be requested by motion, and  
27 reasonable notice and opportunity for hearing shall be afforded the party against whom

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1 relief is sought.” Local Rules W.D. Wash. Bankr. R. 9013-1(d)(2)(F) requires at least  
2 15 days notice preceding the date fixed for hearing. Local Rules W.D. Wash. Bankr.  
3 R. 9013-1(c)(2) requires that notice be given to the debtor, the debtor’s attorney, the  
4 trustee, the United States trustee, all creditors, all indenture trustees, and any persons  
5 requesting special notice.<sup>1</sup> The Debtors argue that because the Trustee’s alternative  
6 motion to dismiss does not comply with the Code and these rules, the Debtors were  
7 deprived their right to due process.

8 The Trustee counters that although it has labeled its request for relief an alternative  
9 motion to dismiss, it is not seeking to dismiss the Debtors’ case pursuant to 11 U.S.C.  
10 § 1307. Rather, the Trustee is attempting to put into place a “strict compliance” order  
11 whereby the Court sua sponte dismisses a debtor’s case when certain information  
12 necessary for confirmation is not provided by a specific date. The Trustee argues that such  
13 a strict compliance order is within the scope of 11 U.S.C. § 105(a), as recognized in the  
14 recent decision of In re Tennant, 318 B.R. 860 (9th Cir. BAP 2004), and the 1986  
15 amendment to this Code section.

16 11 U.S.C. § 105(a) provides as follows:

17 The court may issue any order, process, or judgment that is necessary or  
18 appropriate to carry out the provisions of this title. No provision of this title  
19 providing for the raising of an issue by a party in interest shall be construed  
20 to preclude the court from, sua sponte, taking any action or making any  
determination necessary or appropriate to enforce or implement court orders  
or rules, or to prevent an abuse of process.

21 Although most bankruptcy courts once held that a court could not dismiss a case  
22 sua sponte under 11 U.S.C. § 1307, 11 U.S.C. § 105(a) “was revised in 1986 to overrule  
23 prior decisions prohibiting a court from acting sua sponte when the statute authorized only  
24 a party in interest to act.” Tennant, 318 B.R. at 869; see also 8 L. King, Collier on  
25 Bankruptcy, ¶ 1307.04, p.1307-9-10 (15th ed. rev. 2004).

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26 <sup>1</sup>The Court makes no ruling on whether Local Rules W.D. Wash. Bankr.  
27 R. 9013-1(c)(2) applies to a motion to dismiss under 11 U.S.C. § 1307, as asserted by the  
Debtors.

1 In Tennant, the debtor filed his Chapter 13 petition, but failed to file his Schedules  
2 I and J, the Chapter 13 plan, or the Statement of Financial Affairs along with the petition.  
3 Tennant, 318 B.R. at 864. On the same day that the debtor filed his petition, the clerk of  
4 the court entered an “Order to Comply with Bankruptcy Rules 1007 and 3015(b) and Notice  
5 of Intent to Dismiss Case under 11 U.S.C. § 109(g)(1),” (Comply Order) that directed the  
6 debtor to file the missing documents within 15 days or to move for an extension of time.  
7 Tennant, 318 B.R. at 864 (footnote omitted). The Comply Order stated that if the debtor  
8 did not comply by the deadline, the court would dismiss the case without further notice.  
9 Tennant, 318 B.R. at 864. The debtor failed to file the Statement of Financial Affairs within  
10 the requisite period of time. The clerk of the court subsequently issued an order dismissing  
11 the debtor’s case without further notice or a hearing. Tennant, 318 B.R. at 865. There is  
12 no indication that the bankruptcy judge prepared or even considered the Comply Order or  
13 dismissal order, which was a generated form that bore the name of the clerk of court,  
14 followed by “For The Court.” Tennant, 318 B.R. at 865.

15 On appeal, the Ninth Circuit Bankruptcy Appellate Panel initially held that a “court  
16 can dismiss a case sua sponte under Section 105(a).” Tennant, 318 B.R. at 869 (citing  
17 In re Meints, 222 B.R. 870, 871-72 (Bankr. D. Neb. 1998)). The appellate court then  
18 affirmed the bankruptcy court’s sua sponte dismissal, noting that the bankruptcy court  
19 based its dismissal on the debtor’s failure to file the Statement of Financial Affairs within  
20 the directed 15 days and as required by Fed. R. Bankr. P. 1007(c). “To enforce the  
21 Comply Order and Rule 1007(c), the court was authorized to dismiss Debtor’s case  
22 sua sponte. Section 105(a) makes ‘crystal clear’ the court’s power to act sua sponte where  
23 no party in interest or the United States trustee has filed a motion to dismiss a bankruptcy  
24 case.” Tennant, 318 B.R. at 869 (quoting In re Greene, 127 B.R. 805, 807 (Bankr. N.D.  
25 Ohio 1991)).

26 In considering the bankruptcy court’s sua sponte power under 11 U.S.C. § 105(a),  
27 the Ninth Circuit Bankruptcy Appellate Panel also addressed whether this power is

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1 restricted by Fed. R. Bankr. P. 1017(c). Tennant, 318 B.R. at 870. This rule provides that  
2 the court may dismiss a Chapter 13 case under 11 U.S.C. § 1307(c)(9) “after a hearing on  
3 notice served by the United States trustee on the debtor, the trustee, and any other entities  
4 as the court directs.” Fed. R. Bankr. P. 1017(c). The appellate court held that this rule  
5 does not govern a sua sponte dismissal made in accordance with 11 U.S.C. § 105(a).  
6 Furthermore, even if Fed. R. Bankr. P. 1017(c) conflicts with 11 U.S.C. § 105(a), the  
7 conflict must be resolved in favor of the Code. Tennant, 318 B.R. at 870.

8       The Tennant court also considered the notice, hearing, and due process rights of  
9 the debtor in that case, commenting that “[e]ven though the court dismissed Debtor’s case  
10 . . . through its general powers under Section 105(a), the concept of procedural due  
11 process requires a notice and an opportunity to be heard.” Tennant, 318 B.R. at 870. The  
12 appellate court noted that the concept of notice and a hearing is “flexible and depends on  
13 what is appropriate in the particular circumstance.” Tennant, 318 B.R. at 870. While  
14 dismissal without notice and an opportunity to be heard is not appropriate where  
15 substantive issues are to be determined, if a case involves “only very narrow procedural  
16 aspects, a court can dismiss a Chapter 13 case without further notice and a hearing if the  
17 debtor was provided ‘**with notice of the requirements to be met.**’” Tennant, 318 B.R.  
18 at 870 (quoting Meints, 222 B.R. at 872). “Thus, a procedure is ‘perfectly appropriate’ that  
19 notifies the debtor of the deficiencies of his petition and dismisses the case sua sponte  
20 without further notice and a hearing when the debtor fails to file the required forms within  
21 a deadline.” Tennant, 318 B.R. at 870-71 (quoting In re Minkes, 237 B.R. 476, 478 (8th Cir.  
22 BAP 1999)). Applying this standard, the Tennant court held that the notice to the debtor  
23 was appropriate under the circumstances and an actual hearing was not necessary. The  
24 debtor was notified that failure to file the missing documents would lead to a dismissal  
25 without further notice and that he must file a motion to receive an extension of time. The  
26 failure to file the required documents within 15 days was not substantive. Tennant,  
27 318 B.R. at 871.

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1 The Debtors argue that Tennant does not apply in their case because the  
2 compliance issues stemming from the Trustee's objection to confirmation and alternative  
3 motion to dismiss are in fact "substantive issues," rather than procedural issues, that  
4 require notice and a hearing. The Tennant case does not define the term "substantive  
5 issues." Tennant, 318 B.R. at 870-71. The facts of that case, however, and the cases  
6 cited within, are instructive for determining what alleged deficiencies should fall under the  
7 category of "very narrow procedural aspects." Tennant, 318 B.R. at 870. For instance, a  
8 debtor's failure to file documents required by statute or court rule, and to comply with a  
9 court order directing the debtor to file these documents by a date certain, is a "very narrow  
10 procedural aspect" that does not require notice and a hearing. Tennant, 318 B.R.  
11 at 870-71. It is also apparent that based on Meints, a debtor's failure to file certain  
12 documents ordered by the court in a prior bankruptcy as a prerequisite to filing a new  
13 bankruptcy case, is a procedural issue not requiring notice and a hearing. Meints, 222 B.R.  
14 at 871-72.

15 This Court concludes that the use of the Trustee's objection to confirmation and  
16 alternative motion to dismiss is procedural, rather than substantive. Like Tennant and  
17 Meints, this case involves a sua sponte dismissal in the event the Debtors fail to comply  
18 with the terms of a strict compliance order. The only difference in this case is that the  
19 Trustee, rather than the clerk of the court, has indicated the information to be provided by  
20 the Debtors and the deadline for providing such information. This difference has no  
21 bearing, however, because similar to the Tennant case, it is uncontroverted that the  
22 requested information is required to complete the Debtors' bankruptcy.<sup>2</sup> Even if the  
23 Debtors disputed the requested information, they would have the opportunity to raise this  
24 issue with the Trustee at the First Meeting, or with the Court at the hearing on the Trustee's

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25  
26 <sup>2</sup>The Debtors concede that "[t]he trustee is entitled to request whatever documents  
27 or information she deems reasonable, and debtors are required to comply." Debtors' Mem.  
28 Supp. Resp. at 1:15-17.

1 objection to confirmation. Furthermore, the Court alone approves the deadline before  
2 signing the strict compliance order.

3 The Debtors next contend that as in In re Dinova, 212 B.R. 437 (2d Cir. BAP 1997),  
4 notice of the Debtors' deficiencies in this case was premature. In Tennant, as a part of its  
5 due process analysis, the Ninth Circuit Bankruptcy Appellate Panel considered whether the  
6 deficiency notice to the debtor was premature, as in Dinova. Tennant, 318 B.R. at 871  
7 (citing Dinova, 212 B.R. at 443-44). In that case, the bankruptcy court sent notice of a  
8 deficiency to the debtor before the debtor failed to comply with the required procedure, and  
9 then dismissed the case without a hearing. The Second Circuit Bankruptcy Appellate Panel  
10 held that this procedure did not comport with procedural due process. The Tennant court  
11 distinguished the facts of its case, noting that the debtor committed an initial error of  
12 incomplete filing, and then the bankruptcy court issued its Comply Order and dismissed the  
13 case when the debtor failed to comply. Unlike Dinova, the Ninth Circuit Bankruptcy  
14 Appellate Panel found no premature notice to the debtor. Tennant, 318 B.R. at 871.

15 The facts of this case are similar to Tennant. The Debtors in the instant case had  
16 a defect in their bankruptcy filing—failure to provide the two most recent pay stubs—that  
17 occurred when they filed their Chapter 13 Plan.<sup>3</sup> Thereafter, the Debtors were notified of  
18 this defect possibly at the First Meeting, but certainly by the hearing set on the objection  
19 to confirmation. Consequently, notification was given after the defect occurred, providing  
20 the Debtors the opportunity to contest the filing defect at the hearing. Unlike in Dinova,  
21 there was no premature notice of defect. Further, the Trustee's proposed order was filed  
22 on February 18, with a March 31 strict compliance date, allowing the Debtors sufficient time  
23 to comply or have their case dismissed. At the March 1 hearing, the Debtors did not seek  
24 additional time or contest the information sought by the Trustee.

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26 <sup>3</sup>Pursuant to Fed. R. Bankr. P. 3015(b), the debtor may file a Chapter 13 plan with  
27 the petition, and if not then, "within 15 days thereafter." Local Rules W.D. Wash. Bankr.  
R. 3015-1(f) requires a debtor to file copies of the two most recent pay statements and/or  
other verification of income "not later than the date the plan is due."



1 The Debtors next assert that unlike Tennant, the Trustee, rather than the Court, is  
2 seeking a dismissal. The Debtors point to the language contained in the Trustee's  
3 proposed order to deny confirmation:

4 ORDERED that in the event debtor fails to comply with the foregoing  
5 order and timelines, the Trustee's Motion to Dismiss the debtor's Chapter 13  
6 case should be granted upon submission of a declaration filed in connection  
7 with an order of dismissal, without further notice[.]

8 Trustee's Proposed Order at 1:18-20. The Trustee clarifies that what it seeks from the  
9 Court is dismissal of a case upon an ex parte statement, made under penalty of perjury,  
10 that the debtor failed to comply with the Court's order. The Trustee argues that this  
11 process is routinely employed in the entry of orders dismissing a case or granting relief  
12 from the automatic stay. In such cases, it is the court, and not the declarant, that dismisses  
13 the case or grants the requested relief. These orders are commonly referred to as "strict  
14 compliance" orders. Although the Debtors' argument that allowing the Trustee to determine  
15 when a debtor has complied with a court order is tantamount to allowing the Trustee to  
16 dismiss the case, this argument is not persuasive.

17 In the procedure proposed by the Trustee, the Court must sign and enter the  
18 underlying order, or strict compliance order, that directs a debtor to provide certain  
19 information to the Trustee by a specific date. Although it is the Trustee who requests the  
20 compliance order, only the Court can order it, and only after the debtor has had an  
21 opportunity to contest the information requested by the Trustee. Thereafter, as illustrated  
22 in Tennant, it is not necessary for a bankruptcy judge to make the determination of whether  
23 a debtor has met the procedural requirements of a compliance order, or even sign the  
24 dismissal order. In that case, the court clerk first determined that the debtor had not  
25 complied with the court's order and then issued a dismissal order. In this case, the Trustee  
26 merely proposes that it initially determine whether compliance with the Court's order has  
27 been met. Thereafter, the Trustee requests the Court to sign the dismissal order. This is  
28 far more judicial involvement than required by the Ninth Circuit Bankruptcy Appellate Panel

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1 in Tennant. This procedure does not usurp the Court's authority. The Debtors have failed  
2 to provide any case law or legislation that prohibits the use of similar strict compliance  
3 orders.

4 The Debtors' final argument is that the procedure proposed by the Trustee provides  
5 no adequate remedy if a case is dismissed improperly. The Trustee counters that the  
6 Debtors can seek relief under Fed. R. Bankr. P. 9024. To warrant relief under this rule, the  
7 Debtors would be required to establish only their compliance with the Court's order. This  
8 is the identical burden that would be on the Debtors if the Trustee filed a motion to dismiss  
9 for failure to comply with the Court's order. In that situation, if the Trustee presented  
10 evidence that the Debtors had not complied with the Court's order, the Debtors would then  
11 be required to establish compliance. The Court agrees that there is no meaningful  
12 difference between the burden of proof placed on the Debtors for purposes of seeking a  
13 Fed. R. Bankr. P. 9024(b)(1) motion and defending a motion to dismiss. Fed. R. Bankr. P.  
14 9024 provides an adequate remedy for a debtor whose Chapter 13 case is dismissed  
15 improperly.

16 The Court concludes that the Trustee, or a creditor, may utilize a strict compliance  
17 order that allows the Court's sua sponte dismissal of a Chapter 13 case without further  
18 notice, in accordance with 11 U.S.C. § 105(a). Although fully supported by the Tennant  
19 case, the Court's result is also in accord with the plain language of 11 U.S.C. § 105(a).  
20 Section 105(a) explicitly grants a court the authority to "issue any order" that is necessary  
21 to "carry out the provisions of this title," or to take "any action or mak[e] any determination  
22 necessary or appropriate to enforce or implement court orders or rules, or to prevent an  
23 abuse of process." The Code and court rules, both federal and local, require that a debtor  
24 provide specific financial information in order to confirm a Chapter 13 plan and enjoy the  
25 privileges of bankruptcy protection. As part of the confirmation process, the Trustee  
26 routinely reviews a debtor's Chapter 13 plan to determine whether it complies with the  
27 requirements of the Code and the bankruptcy rules, including whether the debtor has filed

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1 information adequate for confirmation. The plain language of 11 U.S.C. § 105(a) grants the  
2 Court the authority to order a debtor to provide that information required by the Code and  
3 bankruptcy rules for confirmation. Furthermore, 11 U.S.C. § 105(a) grants the Court the  
4 authority to take any action necessary or appropriate to enforce its order. Accordingly, if  
5 a debtor fails to comply with the Court's strict compliance order that directs the debtor to  
6 provide information required of it by the Code and rules, 11 U.S.C. § 105(a) allows the  
7 Court to dismiss the debtor's case.

8         The interest of efficiency also supports the use of strict compliance orders. Due to  
9 the sheer volume of filed Chapter 13 cases, the Trustee must have a procedure that will  
10 allow it to move cases quickly to confirmation in the most efficient and practicable manner  
11 possible. The methods previously used by the Trustee illustrate that the Trustee is seeking  
12 to balance efficiency and fairness to both debtors and creditors in each case. As conceded  
13 by the Debtors, the information requested by the Trustee is not only reasonable, but it is  
14 required by the Code and bankruptcy rules for plan confirmation. If a debtor has the  
15 opportunity to contest the information requested by the Trustee and is afforded a  
16 reasonable amount of time to provide the information or seek an extension, there appears  
17 to be no reason to allow the debtor to stretch out the confirmation process, at the creditors'  
18 expense, by requiring the Trustee to file a separate motion to dismiss pursuant to 11 U.S.C.  
19 § 1307. Because a debtor is seeking the benefits of bankruptcy and the automatic stay,  
20 it is not overly burdensome to require the debtor and/or debtor's counsel to comply with the  
21 Code and bankruptcy rules in a timely manner.

22         While concluding that strict compliance orders are permitted, the Court cautions that  
23 such orders are enforceable only to the extent they comport with the due process  
24 requirements identified in Tennant. To ensure due process is provided, the following  
25 criteria must be met before this Court will approve a strict compliance order that includes  
26 a penalty of dismissal for failure to comply:

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28 MEMORANDUM DECISION - 11

- 1 (1) Contained within an objection to confirmation, the Movant shall  
2 request that in the event the Court sustains the objection, the Court  
3 enter an "order for strict compliance or dismissal." This request  
4 should also be noted in the pleading caption.
- 5 (2) The objection to confirmation and request for strict compliance order  
6 shall contain the following:  
7 a. the debtor's filing defects and/or additional information sought  
8 by the Movant;  
9 b. refer to the Code, rule, or case law that requires the  
10 information requested;  
11 c. provide that if the debtor disputes the defects identified in the  
12 objection to confirmation or the additional information  
13 requested by the Movant, or requests additional time to  
14 comply, the debtor must file a written objection to be set at the  
15 same time as the hearing on the Movant's objection to  
16 confirmation and request for strict compliance order;  
17 d. propose a deadline that gives the debtor a reasonable amount  
18 of time to comply with the strict compliance order (whether an  
19 amount of time is reasonable will depend on the type and  
20 quantity of the information requested);  
21 e. provide that without further notice to the debtor, a dismissal  
22 order shall be entered by the Court upon the filing of the  
23 Movant's declaration, stating that the debtor has not provided  
24 the information required by the strict compliance order within  
25 the specified time, and that the debtor did not seek or obtain an  
26 extension of time to comply with the strict compliance order.
- 27 (3) The Movant's declaration in support of the order of dismissal must set  
28 forth what information the Court ordered the debtor to provide, the  
deadline date to provide the information, that the debtor did not seek  
or obtain an extension of time to comply with the strict compliance  
order, and what information the debtor failed to provide by the  
deadline date.

Accordingly, the Trustee's objection to confirmation is sustained. Within 15 days of  
the entry of this Memorandum Decision and the attendant order, the Trustee must file a  
strict compliance order consistent with this Memorandum Decision for Court approval.  
Because the Trustee previously allowed the Debtors 30 days to provide the requested  
information, the strict compliance order will allow the Debtors 30 days from the date the  
order is entered to provide the requested information. The Court notes that the criteria  
established in this Memorandum Decision for enforceable strict compliance orders are

1 prospective only and, consequently, does not affect any strict compliance orders previously  
2 entered by this Court.

3 DATED: April 26, 2005

*Paul B. Snyder*

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5 Paul B. Snyder  
U.S. Bankruptcy Judge  
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